IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CRIMINAL MISC. PETITION NO.671/2000

Bhanwar Lal Sarda **Versus** Dilip Singh & Ors.

DATE OF ORDER :: 17/09/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Vikramaditya Shekhawat, for petitioner
Mr. Arun Sharma, Public Prosecutor for State

***

Instant petition has been filed by complainant-petitioner assailing the order of learned Executive Magistrate whereby proceedings initiated u/s.145 Cr.P.C. were finally dropped by him vide order dated 23rd June, 1999 – against which revision petition was preferred which was dismissed on 25th March, 2000.

Jagdish Sharda made a written report in which it was alleged that his land is being encroached by unknown person and there is full possibility of breach of peace with regard to disputed property bearing Khasra Nos.107, 108, 111, 112, 113 & 104/367. On the basis of said report, a complaint was filed by the SHO, Police Station Vaishali Nagar before the Court of Executive Magistrate. Interim order was passed by him, but after due adjudication, learned Executive Magistrate finally came to the conclusion that there is no fruitful purpose for initiating the proceedings u/s.145 Cr.P.C. and finally proceedings initiated were dropped by him on 23rd

June, 1999. The Court of Revision also examined in detail and finally upheld the order of learned Executive Magistrate taking decision to drop the proceedings initiated u/s.145 Cr.P.C. and affirmed the finding recorded under his order dated 25th March, 2000.

The proceedings initiated u/s.145 Cr.P.C. are of interim measure and it does not decide the inter se rights of the parties either with respect to title or possession of the property in question. If the court after adjudication comes to prima facie conclusion that there is a possibility of breach of peace, intervention can be made in exercise of judicial discretion available to the authority u/s.145 Cr.P.C.

Both the courts below finally arrived to a conclusion to drop the proceedings, this court does not find any substance to now interfere in the same after almost 7 years of the order of proceedings being dropped by learned Executive Magistrate and affirmed by the Court of Revision under its order dated 25th March, 2000.

Counsel for petitioner has informed that the revenue suit in regard to the disputed property in question is pending which alone will decide the inter se rights of the parties with respect to title or possession of the property in question.

This court finds no substance in the present misc. petition, the same stands dismissed. Record be sent back to trial court.

[AJAY RASTOGI],J.